

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Stipulated Surrender of
License and Order Against:

ANDREA R. ANDERSON
AKA ANDREA ROSWITHA ANDERSON
AKA ROSWITHA ANDREA ANDERSON

Registered Nurse License No. **419470**
Nurse Practitioner Certificate No. **4477**
Nurse Practitioner Furnishing Certificate No. **4477**

Respondent.

Case No. 2017-837

OAH No. 2017070855

**STIPULATED SURRENDER
OF LICENSE AND ORDER**

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

IT IS SO ORDERED **November 4, 2020.**

This Decision shall become effective on **November 4, 2020.**



Loretta Melby, RN, MSN, Executive Officer
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Stipulated Surrender of License
and Order Against:

Andrea R. Anderson aka
Roswitha Andrea Anderson aka
Andrea Roswitha Anderson
3760 Vista Campana S #77
Oceanside, CA 92057

Registered Nurse License No.419470
Nurse Practitioner Certificate No.4477
Nurse Practitioner Furnishing Certificate No. 4477

Respondent.

Case No.2017-837
OAH No. 2017070855

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties that
the following matters are true:

PARTIES

1. Loretta Melby, MSN, RN. (Complainant) is the Executive Officer of the
Board of Registered Nursing, who brought this action solely in his official capacity.

2. Andrea R. Anderson, aka Roswitha Andrea Anderson, aka Andrea
Roswitha Anderson (Respondent), is representing herself in this proceeding and has chosen not
to exercise her right to be represented by counsel.

3. On or about September 30, 1987, the Board of Registered Nursing issued
Registered Nurse License No. 419470 to Andrea R. Anderson, aka Roswitha Andrea Anderson,
aka Andrea Roswitha Anderson (Respondent). The Registered Nurse License No. 419470 will
expire on April 30, 2021, unless renewed.

4. On or about June 7, 1988, the Board of Registered Nursing issued Nurse
Practitioner Certificate No. 4477 to Andrea R. Anderson, aka Roswitha Andrea Anderson, aka
Andrea Roswitha Anderson (Respondent). The Nurse Practitioner Certificate No.4477 will
expire on April 30, 2021, unless renewed.

1 5. On or about January 27, 2006, the Board of Registered Nursing issued
2 Nurse Practitioner Furnishing Certificate No. 4477 to Andrea R. Anderson, aka Roswitha Andrea
3 Anderson, aka Andrea Roswitha Anderson (Respondent). The Nurse Practitioner Furnishing
4 Certificate No. 4477 will expire on April 30, 2021, unless renewed.

5 JURISDICTION

6 6. On May 21, 2019, the Board of Registered Nursing adopted Proposed
7 Decision and Order No. 2017-837, which became effective on June 20, 2019. The Stipulated
8 Settlement and Disciplinary Order requires, Andrea R. Anderson, aka Roswitha Andrea
9 Anderson, aka Andrea Roswitha Anderson, the respondent to serve a 3-year probation term that
10 includes Probation Conditions # 1-13. The Stipulated Settlement and Disciplinary Order is
11 attached as exhibit A and incorporated herein by reference.

12 7. At all times after the effective date of Respondent's probation, Condition
13 13 states,

14 **“License Surrender.** During Respondent's term of probation, if she
15 ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
16 the conditions of probation, Respondent may surrender her license to the Board.
17 The Board reserves the right to evaluate Respondent's request and to exercise its
18 discretion whether to grant the request, or to take any other action deemed
19 appropriate and reasonable under the circumstances, without further hearing.
20 Upon formal acceptance of the tendered license and wall certificate, Respondent
21 will no longer be subject to the conditions of probation.

22 Surrender of Respondent's license shall be considered a disciplinary action
23 and shall become a part of Respondent's license history with the Board. A
24 registered nurse whose license has been surrendered may petition the Board for
25 reinstatement no sooner than the following minimum periods from the effective
26 date of the disciplinary decision:

27 (1) Two years for reinstatement of a license that was surrendered for any
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reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.”

ADVISEMENT AND WAIVERS

8. Respondent has carefully read and understands Stipulated Settlement and Disciplinary Order No. 2017-837. Respondent has carefully read and understands the effects of this Stipulated Surrender of License and Order and understands that this Stipulated Surrender, if accepted by the Board, is considered as formal discipline of her license.

9. Respondent understands that by signing this stipulation she enables the Board to accept the surrender of her Registered Nurse License, Nurse Practitioner Certificate, & Nurse Practitioner Furnishing Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. The Respondent understands and agrees that by signing this Stipulated Surrender of License and Order, she may not withdraw her agreement or seek to rescind the stipulation prior to the date it becomes effective. If the Board declines to accept this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

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1 owed pursuant to Stipulated Settlement and Disciplinary Order No. 2017-837, (Exhibit A). If
2 the reinstatement of Respondent's license is granted, Respondent shall be permitted to pay
3 these costs in a payment plan approved by the Board.

4 6. Respondent shall not apply for licensure or petition for reinstatement
5 for 1 year from the effective date of the Board of Registered Nursing's Decision and Order.
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7 ACCEPTANCE

8 I have carefully read the Stipulated Surrender of License and Order. I understand
9 the stipulation and the effect it will have on my Registered Nurse License, Nurse Practitioner
10 Certificate, and Nurse Practitioner Furnishing Certificate. I enter into this Stipulated Surrender
11 of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Board of Registered Nursing.

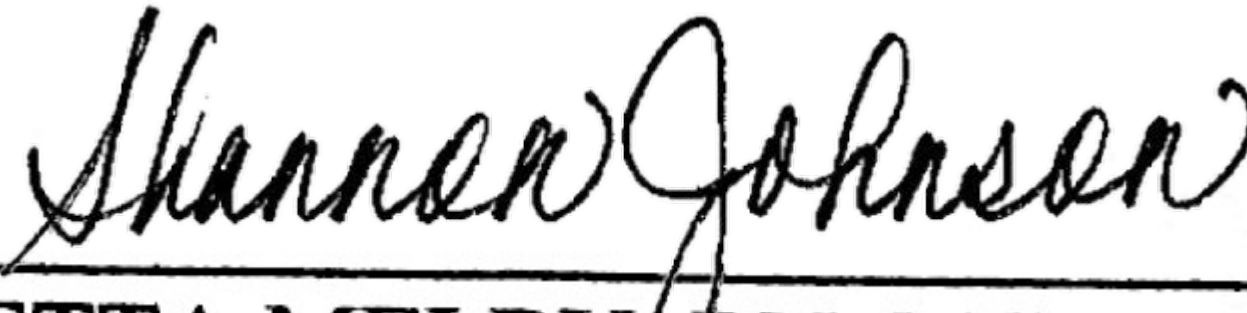
13 DATED: 8/18/2020.

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16 Andrea R. Anderson aka
17 Roswitha Andrea Anderson aka
18 Andrea Roswitha Anderson
19 Respondent

20 ENDORSEMENT

21 The foregoing Stipulated Surrender of License and Order is hereby respectfully
22 accepted by Loretta Melby, RN, MSN. (Complainant) as the Executive Officer for the Board of
23 Registered Nursing.

24 DATED: September 9, 2020.

25  for
26 LORETTA MELBY, RN, MSN.
27 Executive Officer
28 BOARD OF REGISTERED NURSING

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EXHIBIT “A”

Purposed Decision and Order No.2017-837 OAH No. 2017070855

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**ANDREA R. ANDERSON
AKS ROSWITHA ANDREA ANDERSON
AKA ANDREA ROSWITHA ANDERSON**

**Registered Nurse License No. 419470
Nurse Practitioner Certificate No. 4477
Nurse Practitioner Furnishing Certificate
No. 4477**

Respondent.

Case No. 2017-837

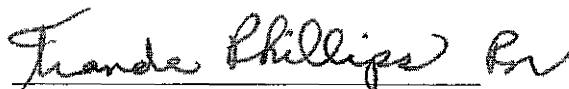
OAH No. 2017070855

DECISION

The attached Decision and Order of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on **June 20, 2019.**

IT IS SO ORDERED this **21st** day of **May 2019.**



Trande Phillips, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**ANDREA R. ANDERSON,
AKA ROSWITHA ANDREA ANDERSON
AKA ANDREA ROSWITHA ANDERSON,**

**Registered Nurse License No. 419470
Nurse Practitioner Certificate No. 4477
Nurse Practitioner Furnishing Certificate No.
4477,**

Respondent.

Case No. 2017-837

OAH No. 2017070855

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on December 11, 2018, in Oakland, California.

Judith J. Loach, Deputy Attorney General, represented complainant Joseph L. Morris, PhD, MSN, RN, Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

John Fleer, Attorney at Law, represented respondent Andrea R. Anderson, who was present.

The record was closed and the matter was submitted for decision on December 11, 2018. Submission of the matter was vacated on January 4, 2019, and the parties were directed to file briefs. Complainant's brief was timely filed and received into evidence as Exhibit 11. Respondent did not file a brief. The matter was deemed submitted on March 4, 2019.

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FACTUAL FINDINGS

1. Complainant Joseph L. Morris, PhD, MSN, RN, Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (Board), brought the Accusation solely in his official capacity.

2. On September 30, 1987, the Board issued Registered Nurse License Number 419470 to respondent Andrea R. Anderson, also known as Roswitha Andrea Anderson and as Andrea Roswitha Anderson. On June 7, 1988, the Board issued Nurse Practitioner Certificate No. 4477 to respondent. On January 27, 2006, the Board issued Nurse Practitioner Furnishing Certificate No. 4477 to respondent. The license and certificates were in full force and effect at all times relevant to the charges in the Accusation. Respondent's license and certificates have not previously been disciplined by the Board.

3. The burden of proof in this matter is on complainant, and the standard of proof is clear and convincing evidence.

4. The Accusation seeks discipline against respondent for violations of the Nursing Practice Act, relating to her operation of an independent family practice facility in Alameda. The Accusation alleges six causes for discipline: 1) unlawful operation of a medical corporation; 2) failure to properly identify the clinic; 3) impersonating a medical doctor; 4) providing care without standardized procedures; 5) furnishing drugs without standardized procedures; and 6) practicing medicine without a license.

Background

5. Prior to licensure in California, respondent studied medicine in her native Germany. She immigrated to the United States in 1968. She became licensed as a registered nurse in North Carolina. She then studied nursing at the University of Texas, Arlington, and received a FNP/MSN degree. In 1986, respondent completed a Doctor of Philosophy degree in psychology from the California University for Advanced Studies. Her focus was in behavioral health.

6. From 1989 through 2014, respondent operated a family practice facility in Alameda, under the name "AAI Health Services" (AAI or the facility). Respondent is committed to working with underserved populations, including individuals with histories of drug and alcohol abuse. During the time she operated the facility, respondent usually maintained other employment as a nurse practitioner, including at La Clinica de la Raza in Oakland, which serves migrant workers and undocumented immigrants.

7. The history of the ownership and business structure of AAI was not clearly established. According to respondent, there were initially other people involved in operating the facility, and at some point it was operated as a licensed community clinic. However, respondent represents on her curriculum vitae that she has been an "Independent practice Nurse Practitioner Sole Proprietor" since 1989. By the time of the investigation into this

matter in 2013, it is undisputed that respondent was the sole owner of AAI, and had been for many years.

8. Articles of Incorporation for "AAI Health Services" were filed with the Secretary of State in 2000, describing the corporation as a "nonprofit Public Benefit Corporation" which "provides for nurse practitioners primary health care service delivery aimed primarily at the medically underserved population of Alameda County." A 2001 filing identifies respondent and Gordon P. Dupree, Jr. as officers of the corporation. According to respondent, this corporation was "abandoned."

In 2009, Articles of Incorporation for "AAI Health Services" were filed with the Secretary of State for a "nonprofit Public Benefit Corporation" with the purpose listed as "medical and health care services for uninsured persons in drug and alcohol treatment programs." A 2013 filing lists respondent, Mary Woods, and Gordon Pettus Dupree Jr. as officers. The corporation was listed as "active" on the Secretary of States website on June 16, 2014. A fictitious business name statement filed by respondent in Alameda County on July 31, 2013, reported that the business "AAI Health Services" was operated by "an Individual" and had been operating using this fictitious name since June 1, 1995.

9. Respondent did not provide a clear history of the business structure of AAI and did not offer any documentary evidence on this issue. Respondent stated that she always consulted with attorneys and other experts when operating her facility, because she wanted to comply with the law. Her legal counsel advised her that she could have an independent nursing practice as long as she worked under the protocol and supervision of a medical doctor. She was advised that as a nurse practitioner, she could own a nursing corporation. However, respondent denied ever owning and operating either a nursing or a medical corporation and described AAI as a "nonprofit."

Supervision and standardized procedures

10. Respondent is aware that physician supervision is required for her to practice and has always arranged for a supervising physician. During the time that respondent operated AAI, various physicians have agreed to supervise her practice. Respondent is also aware that standardized procedures are required. Respondent initially purchased nurse practitioner protocols from another independently practicing nurse practitioner when she opened AAI. These protocols were updated over the years. By the time of the investigation, respondent was using a reference manual as her standardized procedures, as described more fully below.

11. Dr. Jesus Saucedo intermittently served as respondent's supervising physician between 2006 and 2014, including from 2011 until the facility closed in 2014. Dr. Saucedo is board-certified in family medicine. He worked with respondent at La Clinica de la Raza and holds her in high regard as a skilled clinician. Dr. Saucedo never treated any patients at AAI, but acknowledged that he viewed himself as ultimately responsible for their care. During the time he supervised respondent at AAI, Dr. Saucedo was available for telephone

consultation and he reviewed respondent's charts quarterly. Dr. Saucedo was not paid to serve as the supervising physician for AAI. He agreed to be the supervising physician because respondent was treating poor, underserved patients and he supported her mission.

Dr. Saucedo did not collaborate with respondent to develop standardized procedures to govern respondent's practice. He discussed with respondent using manuals and reference materials. From 2011 through 2014, Dr. Saucedo and respondent used the *Patient Care Guidelines for Nurse Practitioners, 4th Edition* (1995) as the standardized procedures. There was no written formulary for respondent's prescribing practice, but there was an agreement between Dr. Saucedo and respondent that she would not prescribe narcotics.

Dr. Saucedo thought the patient care manual provided sufficient standardized procedures to govern the provision of care by nurse practitioners at AAI. Dr. Saucedo explained that he has worked with nurse practitioners in other settings and never saw written standardized procedures for nurse practitioners. He was not aware of the Board's requirements regarding standardized procedures for patient care and drug furnishing by nurse practitioners performing medical care under the supervision of a physician.

Board's investigation

12. In August 2013, the family member of a patient filed a complaint with the Board, alleging in part that respondent was misrepresenting herself to patients, family members, and the public as a medical doctor.

13. Kristy Whitmire, a special investigator for the Board, investigated the complaint, wrote a report with her findings, and testified at the hearing. She interviewed Natalie, the individual who filed the complaint in the aftermath of a visit her brother, Patient 1, made to AAI in August 2013.

14. Whitmire made an unannounced visit to AAI on May 20, 2014. Respondent was not at the facility that day. Three individuals were at the facility: a medical assistant, an extern, and a nurse practitioner. Whitmire spoke with Myisha Tarrant, a medical assistant who had been working at the facility for about five months. Tarrant reported that staff and patients referred to respondent as "Dr. Anderson," and that respondent wore a white coat with a patch on it reading, "Andrea Anderson, FNP" when treating patients.

Whitmire also interviewed Tracey Harvey, an extern who had been performing billing services for less than two months. Harvey stated that she had only observed respondent treating patients once or twice, and that respondent wore a white coat. Whitmire asked to see the coat, and Harvey retrieved a coat that had "Dr. Anderson" handwritten on it, with no reference to respondent's status as a nurse practitioner.

During her visit to the AAI facility, Whitmire also interviewed Nurse Practitioner Nadieh Samiaei. Samiaei reported that she had worked at AAI for approximately nine months, since August 2013. When asked who her supervising physician was, Samiaei

reported that she believed it was "Dr. Riordan." Samiaei had never seen Dr. Riordan at AAI while she worked there. When asked if there were standardized procedures, Samiaei showed Whitmire a book titled "Patient Care Guidelines for Nurse Practitioners." During a subsequent interview, Samiaei reported that there had been no supervising physician and no standardized procedures during her time at AAI.

Patient 1

15. Patient 1's sister, Natalie, testified at the hearing. She related that on August 22, 2013, her mother accompanied Patient 1 to AAI. Patient 1 was a new patient to the facility. At the time, he was 27 years old. He suffers from bipolar disorder and asthma. The reason for his medical appointment was to renew his prescription for an asthma medication. Patient 1 was first seen by nurse practitioner Samiaei. At some point the family asked to see another clinician and respondent came to the room. Patient 1's mother became upset during the interaction with respondent and believed that respondent was trying to prescribe Patient 1 an asthma medication that interacts poorly with his psychiatric medication. Respondent asked Patient 1's mother to leave the examining room so that respondent could meet with Patient 1 privately. Patient 1's mother was upset. She went to a business next door and called the police and called her daughter Natalie.

16. Natalie called AAI and asked to speak to respondent. Natalie testified at hearing that respondent introduced herself over the telephone as "Dr. Anderson," and did not identify herself as a nurse practitioner. Natalie formed the impression that respondent was a medical doctor. Natalie further testified that her mother reported that respondent had represented herself as a medical doctor and not as a nurse practitioner during Patient 1's August 22, 2013 visit to AAI. Later, Natalie discovered that respondent is not a medical doctor, and filed her complaint with the Board.

17. A "New Patient Information" form was provided by AAI to Patient 1 at his August 22 appointment. On the bottom of the form is the following text, written in boldface type:

AUTHORIZATION TO PAY BENEFITS TO PHYSICIAN: I hereby authorize/payment directly to Dr. Anderson of the medical and/or medical benefits, if any, otherwise payable to me for services rendered to me or my dependent. I also authorize my doctor to release information regarding my treatment to secure such payment.

Respondent's testimony

18. Respondent insisted that it is her practice to introduce herself as a nurse practitioner. She explained that she is proud of being a nurse practitioner and would never misrepresent herself as a medical doctor. Respondent denied wearing the lab coat that stated "Dr. Anderson" without identifying her as a nurse practitioner while treating patients, and insisted that she always wore a different lab coat with her nurse practitioner status on it. She

brought a photograph showing her wearing a coat with the label, "Dr. Andrea Anderson, FNP." Respondent stated that all of her patients sign an informed consent document consenting to treatment by a nurse practitioner. Respondent did not, however, have an informed consent form from Patient 1. When asked why not, she stated that she had not been involved with checking Patient 1 in.

Respondent testified regarding her interaction with Patient 1 and his family, which she described as "upsetting." Respondent related that Patient 1 and his mother were initially seen by nurse practitioner Samiaei and asked to see a doctor. Respondent testified that she introduced herself as a nurse practitioner when she met with Patient 1 and his mother and told them that no doctor was available at the time. There was tension between respondent and Patient 1's mother because respondent asked her to leave the room so that she could talk to the patient privately. Respondent was concerned that Patient 1 was being abused by his family. Respondent asked her assistant to call the police. Respondent recalled Patient 1's sister Natalie calling while the police were on the scene. Respondent denied identifying herself as a doctor on the phone call with Natalie.

19. Respondent closed AAI in 2014 and went to work for Concentra. She has been working in an urgent care and occupational medicine clinic. Respondent is current on her continuing education requirements.

20. Respondent has previously been investigated by the Board for operating an independent practice several times. These investigations did not lead to disciplinary action.

Expert testimony

21. Andrew Fernandez, DNP, was retained by the Board as an expert. Dr. Fernandez wrote a report and testified at the hearing. Respondent based his report on information provided to him by the Board and did not perform his own investigation. Like respondent, Dr. Fernandez is a nurse practitioner with a doctorate degree. Dr. Fernandez's doctorate is in nursing and is from the University of San Diego. Dr. Fernandez testified that the standard of care for a nurse practitioner with a doctorate degree is to introduce him or herself to patients as a nurse practitioner. Dr. Fernandez believes it is appropriate to state, "I'm Dr. Fernandez, a nurse practitioner." This is required even if the patient has signed a form consenting to treatment by a nurse practitioner.

Dr. Fernandez explained the nurse practitioners in California cannot practice independently. They must practice under a licensed physician. The supervising physician has the ultimate responsibility for all patients being treated by the nurse practitioner. The supervising physician provides oversight. The supervising physician and the nurse practitioner must collaboratively develop standardized procedures to govern the work of a nurse practitioner when it exceeds the registered nurse role and crosses into the role of practicing medicine by performing such tasks as diagnosing patients and prescribing medication. Dr. Fernandez opined that a nurse who functions independently without standardized procedures is practicing medicine without a license.

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Dr. Fernandez explained that a practice guide cannot substitute for standardized procedures. The standardized procedures are customized to the specific practice setting. The standardized procedures must specify experience, training, and education requirements. The standardized procedures outline the specific functions of the nurse practitioner. Dr. Fernandez explained that in order for nurse practitioners to prescribe drugs, there must be a formulary developed with the supervising physician.

Dr. Fernandez also explained that in California, a nurse practitioner cannot practice independently and cannot own and operate his or her own practice.

Dr. Fernandez concluded that respondent failed to meet the standard of practice for a nurse practitioner by failing to identify herself as a nurse practitioner and by operating a clinic without the required oversight of a physician. Dr. Fernandez did not find that respondent's conduct caused harm to a patient.

Costs

22. In connection with the prosecution of this Accusation, the Department of Justice has billed the Board \$17,050 for legal services. These charges are supported by a declaration that complies with the requirements of California Code of Regulations, title 1, section 1042.

Investigation costs in the amount of \$9,932.15¹ and expert costs of \$375 are also sought. These charges are supported by a declaration that complies with the requirements of California Code of Regulations, title 1, section 1042.

The total amount of all costs sought is \$27,357.15. This amount is deemed to be reasonable.

23. Respondent asked for costs to be reduced due to financial hardship. At the time of the hearing she had been on leave from work for several weeks. She receives \$2,200 in monthly income from Social Security. She recently sold her home.

LEGAL CONCLUSIONS

First Cause for Discipline – Violation of the Moscone-Knox Professional Act

1. Business and Professions Code sections 2761, subdivision (a), 2775, 2776, and 2777, provide that the Board may discipline a licensee for violating the Moscone-Knox Professional Corporations Act. The Moscone-Knox Professional Corporation Act (Corp.

¹ The certification of costs prepared by the Board included additional costs for previous investigations. Complainant clarified at hearing that costs incurred during fiscal years 2011-2012 and 2012-2013 are not related to this matter and are not being sought.

Code § 13400 et seq.) sets forth restrictions for the ownership of professional corporations. A medical corporation must be at least 51 percent owned and controlled by physicians licensed by the Medical Board. (Corp. Code § 13401.5.) A nursing corporation must be at least 51 percent owned and controlled by registered nurses licensed by the Board. (*Id.*; Bus. & Prof. Code § 2775.)

The evidence established that respondent filed articles of incorporation for “AAI Health Services” to provide medical services in 2000 and again in 2009. Respondent had sole ownership and control of the corporations. The corporations were medical corporations that were not majority owned and operated by a licensed physician. As such, respondent violated the Moscone-Knox Professional Corporation Act. The time period that these corporations were in operation was not established.

Complainant’s contention that a nurse practitioner cannot own and operate an independent practice of any sort was not persuasive. The cited authority does not prohibit a nurse practitioner from practicing as a sole proprietor. The fact that respondent operated her facility as a medical corporation, and not the fact that she operated a facility as a sole proprietor, provides cause for discipline. Cause for discipline of respondent’s registered nurse license and certificates pursuant to Business and Professions Code sections 2761, subdivision (a), 2775, 2776, and 2777, and Corporations Code section 13401.5, was established, in light of the matters set forth in Factual Findings 6 through 9.

Second Cause for Discipline – Failure to Appropriately Identify Clinic

2. Business and Professions Code sections 2761, subdivision (a), and 2278 provide that the Board may discipline a licensee who operates a nursing corporation whose name fails to contain the words “nursing” or “registered nursing.” The evidence failed to establish that respondent operated a nursing corporation. Complainant withdrew the allegation that respondent operated a nursing corporation in a footnote in his brief.

Accordingly, cause does not exist to discipline respondent’s registered nurse license and certificates pursuant to Business and Professions Code section 2278.

Third Cause for Discipline – Impersonating a Medical Doctor

3. Business and Professions Code section 2761, subdivisions (a) and (h), provides that the Board may discipline a licensee who impersonates another certified or licensed practitioner, such as a medical doctor. Complainant alleges that respondent violated this provision by identifying herself as a “doctor” and wearing a coat identifying herself as “Doctor Anderson.” Respondent testified that her practice is to identify herself to patients and the public as a nurse practitioner. She also testified that she did not wear the lab coat bearing the handwritten title “Dr. Anderson” when treating patients, and instead wears a lab coat identifying herself appropriately.

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The Board's expert established that a nurse practitioner with a doctorate degree may use the title "Dr.," as long as patients are informed that the individual is a nurse practitioner and not a medical doctor. The only direct evidence that respondent failed to do so came from the testimony of Natalie, who was not a patient. According to Natalie, respondent introduced herself as "Dr. Anderson" during a brief phone conversation on August 22, 2013. The telephone conversation occurred during a tense and hectic situation in which the police had been summoned.

Respondent was credible in her testimony that it is not her intention to impersonate a medical doctor. The evidence established, however, that respondent fell short of this intention by identifying herself as a "physician" on her New Patient Information document, by identifying herself on the telephone to Natalie – perhaps inadvertently – as Dr. Anderson without clarifying her status as a nurse practitioner, and by maintaining a lab coat in the facility that did not properly identify her as a nurse practitioner. Cause for discipline pursuant to Business and Professions Code section 2761, subdivisions (a) and (h), for impersonating a medical doctor was established, in light of the matters set forth in Factual Findings 14, 16, and 17.

Fourth Cause for Discipline – Provision of Care without Required Standardized Procedures

4. Business and Professions Code section 2725, subdivision (b), provides that nurses must follow standardized procedures when performing certain functions. Business and Professions Code section 2725, subdivision (c)(2), provides that standardized procedures in a non-licensed health facility such as AAI must be developed through collaboration between administrators and health professionals, including physicians and nurses, pursuant to Board regulations. Failure to comply constitutes unprofessional conduct pursuant to Business and Professions Code section 2761, subdivisions (a) and (d).

California Code of Regulations, title 16, section 1472, provides that a health care organization must develop standardized procedures before permitting registered nurses to perform standardized procedure functions, and that nurses may only perform standardized procedure functions when a standardized procedure is in place, and only in conformity with the standardized procedure.

California Code of Regulations, title 16, section 1474 specifies that a standardized procedure must include all of the following: (1) be in writing, dated and signed by the organized health care system personnel authorized to approve it; (2) specify which standardized procedure functions registered nurses may perform and under what circumstances; (3) state any specific requirements which are to be followed by registered nurses in performing particular standardized procedure functions; (4) specify any experience, training, and/or education requirements for performance of standardized procedure functions; (5) establish a method for initial and continuing evaluation of the competence of those registered nurses authorized to perform standardized procedure functions; (6) provide for a method of maintaining a written record of those persons authorized to perform standardized procedure functions; (7) specify the scope of supervision required for performance of

standardized procedure functions, for example, immediate supervision by a physician; (8) set forth any specialized circumstances under which the registered nurse is to immediately communicate with a patient's physician concerning the patient's condition; (9) state the limitations on settings, if any, in which standardized procedure functions may be performed; (10) specify patient record keeping requirements; and (11) provide for a method of periodic review of the standardized procedures.

The evidence established that respondent did not have standardized procedures in place which satisfied this regulation. The nursing practice manual relied on by respondent was not an adequate substitute for developing appropriate standardized procedures.

Cause for discipline pursuant to Business and Professions Code sections 2761, subdivision (a) and (d), and 2725, and California Code of Regulations, title 16, sections 1472 and 1474, was established, in light of the matters set forth in Factual Findings 10, 11, and 21.

Fifth Cause for Discipline – Furnishing Drugs Without Required Standardized Procedures

5. Business and Professions Code sections 2725 and 2836.1 provide that a nurse practitioner may furnish drugs only pursuant to standardized procedures developed with the supervising physician and which specify which drugs may be furnished and under what circumstances.

The evidence established that respondent did not have adequate standardized procedures governing the furnishing of drugs.

Cause for discipline pursuant to Business and Professions Code sections 2761, subdivision (a) and (d), 2725, and 2836.1, and California Code of Regulations, title 16, sections 1472 and 1474, was established, in light of the matters set forth in Factual Findings 10, 11, and 21.

Sixth Cause for Discipline – Practice of Medicine without a License

6. Business and Professions Code section 2761, subdivisions (a) and (d), provide that the Board may discipline a licensee for unprofessional conduct, including violating provisions of the Nursing Practice Act and Board regulations. By operating her facility without adequate physician supervision and standardized procedures, respondent has been engaging in the unauthorized practice of medicine. Cause for discipline pursuant to Business and Professions Code section 2761, subdivisions (a) and (d), for practicing medicine without a license, was established, in light of the matters set forth in Factual Findings 10, 11, and 21.

Appropriate Discipline

In the disciplinary guidelines promulgated by the Board, the Board has set forth factors to be considered when imposing discipline on a licensee. These factors include the nature and severity of the acts, the actual or potential harm to the public, actual or

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potential harm to any patient, prior disciplinary record, number and/or variety of current violations, whether the respondent complied with the terms of probation or parole, mitigation evidence, rehabilitation evidence, and the time passed since the acts occurred.

Respondent operated a medical corporation for an undetermined period of time. Respondent attempted to comply with the laws regarding how she operated the facility and regarding appropriate physician supervision and standardized protocols. Her efforts were inadequate. Respondent also failed to make sure she did not misrepresent herself as a physician.

There was no evidence of actual harm to patients. There was no evidence that respondent exceeded her training or expertise in treating patients. There was no evidence of any other patient complaints regarding respondent. Respondent has not previously been disciplined by the Board during her long career.

The disciplinary guidelines provide that revocation is the minimum discipline for a licensee who violates Business and Professions Code section 2761, subdivision (h), by impersonating another licensed professional. The guidelines provide for probation as the minimum discipline for the remaining violations. The evidence did not establish that respondent actively attempted to hold herself out as a physician. Her violation of this section appeared to be due to inattention rather than any fraudulent intent to deceive.

Under the circumstances, a deviation from the guidelines is warranted. Revocation is not necessary for public protection. The public will be adequately protected by placing respondent on probation for a period of three years, with appropriate terms and conditions, including that she practice only under appropriate supervision.

Costs

8. Business and Professions Code section 125.3 authorizes the Board to recover its reasonable costs of investigation and enforcement. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court sets forth standards by which a licensing board must exercise its discretion to reduce or eliminate costs awards to ensure that licensees with potentially meritorious claims are not deterred from exercising their right to an administrative hearing. Those standards include whether the licensee has been successful at hearing in getting the charges dismissed or reduced, the licensee's good faith belief in the merits of her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. Considering these factors, a reduction in costs is warranted. Respondent successfully challenged some of the allegations and demonstrated a good faith belief that she was practicing lawfully. Assessing the full costs of the investigation will pose a financial hardship. A reduction of costs by half is appropriate. Respondent will be ordered to reimburse the Board costs in the amount of \$13,678.58.

ORDER

Registered Nurse License Number 419470, Nurse Practitioner Certificate No. 4477, and Nurse Practitioner Furnishing Certificate No. 4477, issued to respondent Andrea R. Anderson, are revoked. However, the revocations are stayed and respondent is placed on probation for three years on the following conditions.

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. Obey All Laws

Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

2. Comply with the Board's Probation Program

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with a representative of the Board in its monitoring and investigation of respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

3. Report in Person

Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

Residency, Practice, or Licensure Outside of State

Period of residency as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide

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written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. Submit Written Reports

Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. Function as a Registered Nurse

Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for six consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply

with this condition. During the one year extension, all original conditions of probation shall apply.

7. Employment Approval and Reporting Requirements

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within 72 hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within 72 hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. Supervision

Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- a) Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- b) Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

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- c) Minimum – The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- d) Home Health Care – If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by respondent with or without respondent present.

9. Employment Limitations

Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. Complete a Nursing Course

Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

11. Cost Recovery

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$13,678.58. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. Violation of Probation

If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of respondent's license.

If during the period of probation, an Accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an Accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the Accusation or petition has been acted upon by the Board.

13. License Surrender

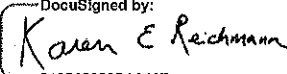
During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

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Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decisions:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

DATED: March 29, 2019

DocuSigned by:

213262228BA640F...

KAREN REICHMANN
Administrative Law Judge
Office of Administrative Hearings

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2017-837

13 **ANDREA R. ANDERSON**
14 **AKA ROSWITHA ANDREA ANDERSON**
15 **AKA ANDREA ROSWITHA ANDERSON**
16 **1001 Shoreline # 105**
17 **Alameda, CA 94501**

ACCUSATION

18 **Registered Nurse License No. 419470**
19 **Nurse Practitioner Certificate No. 4477**
20 **Nurse Practitioner Furnishing Certificate**
21 **No. 4477**

Respondent.

22 Complainant alleges:

23 **PARTIES**

24 1. Joseph L. Morris, PhD, MSN, RN ("Complainant") brings this Accusation solely in
25 his official capacity as the Executive Officer of the Board of Registered Nursing, Department of
26 Consumer Affairs.

27 2. On or about September 30, 1987, the Board of Registered Nursing issued Registered
28 Nurse License Number 419470 to Andrea R. Anderson, aka Roswitha Andrea Anderson, aka
Andrea Roswitha Anderson ("Respondent"). The Registered Nurse License was in full force and
effect at all times relevant to the charges brought herein and will expire on April 30, 2019, unless

1 renewed.

2 3. On or about June 7, 1988, the Board of Registered Nursing issued Nurse Practitioner
3 Certificate Number 4477 to Respondent. The Nurse Practitioner Certificate was in full force and
4 effect at all times relevant to the charges brought herein and will expire on April 30, 2019, unless
5 renewed.

6 4. On or about January 27, 2006, the Board of Registered Nursing issued Nurse
7 Practitioner Furnishing Certificate Number 4477 to Respondent. The Nurse Practitioner
8 Furnishing Certificate was in full force and effect at all times relevant to the charges brought
9 herein and will expire on April 30, 2019, unless renewed.

10 JURISDICTION

11 5. This Accusation is brought before the Board of Registered Nursing ("Board"),
12 Department of Consumer Affairs, under the authority of the following laws. All section
13 references are to the Business and Professions Code unless otherwise indicated.

14 6. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
15 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
16 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
17 Nursing Practice Act.

18 DISCIPLINARY STATUTES AND REGULATIONS

19 7. **Code section 2761 [Grounds for discipline]** states:

20 "The board may take disciplinary action against a certified or licensed nurse or deny an
21 application for a certificate or license for any of the following:

22 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

23 . . .

24 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
25 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
26 Act] or regulations adopted pursuant to it.

27 . . .

28 "(h) Impersonating another certified or licensed practitioner, or permitting or allowing

1 another person to use his or her certificate or license for the purpose of nursing the sick or
2 afflicted.

3 8. **Code section 2725 [Legislative intent: Practice of nursing defined]** states:

4 “(a) In amending this section at the 1973-74 session, the Legislature recognizes that
5 nursing is a dynamic field, the practice of which is continually evolving to include more
6 sophisticated patient care activities. It is the intent of the Legislature in amending this section at
7 the 1973-74 session to provide clear legal authority for functions and procedures that have
8 common acceptance and usage. It is the legislative intent also to recognize the existence of
9 overlapping functions between physicians and registered nurses to permit additional sharing of
10 functions within organized health care systems that provide for collaboration between physicians
11 and registered nurses. These organized health care systems include, but are not limited to, health
12 facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the
13 Health and Safety Code, clinics, home health agencies, physicians’ offices, and public or
14 community health services.

15 “(b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act]
16 means those functions, including basic health care, that help people to cope with difficulties in
17 daily living that are associated with their actual or potential health or illness problems or the
18 treatment thereof, and that require a substantial amount of scientific knowledge or technical skill,
19 including all of the following:

20 “(1) Direct and indirect patient care services that ensure the safety, comfort, personal
21 hygiene, and protection of patients; and the performance of disease prevention and restorative
22 measures.

23 “(2) Direct and indirect patient care services, including, but not limited to, the
24 administration of medications and therapeutic agents, necessary to implement a treatment, disease
25 prevention, or rehabilitative regimen ordered by and within the scope of license of a physician,
26 dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety
27 Code.

28 . . .

“(4) Observation of signs and symptoms of illness, reactions to treatment, general behavior or general physical condition, and (A) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures.

“(c) ‘Standardized procedures,’ as used in this section, mean either of the following:

“(1) Policies and procedures developed by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code through collaboration among administrators and health professionals including physicians and nurses.

“(2) Polices and protocols developed through collaboration among administrators and health professionals, including physician and nurses, by an organized health care system which is not a health facility licensed pursuant to Chapter 2 (commencing with section 1250) of Division 2 of the Health and Safety Code.

“The policies and protocols shall be subject to any guidelines for standardized procedure that the Division of Licensing of the Medical Board of California and the Board of Registered Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the Board of Registered Nursing.

”

9. **California Code of Regulations, Title 16, section 1470 [Purpose]**¹ states:

“The Board of Registered Nursing in conjunction with the Medical Board of California (see the regulations of the Medical Board of California, Article 9.5, Chapter 23, Title 16 of the California Code of Regulations) intends, by adopting the regulations contained in the article, to jointly promulgate guidelines for the development of standardized procedures to be used in organized health care systems which are subject to this rule. The purpose of these guidelines is:

“(a) To protect consumers by providing evidence that the nurse meets all requirements to

¹ California Code of Regulations, Title 16, section 1470 et. seq., sets forth the Standardized Procedure Guidelines under the Nurse Practice Act.

1 practice safely.

2 “(b) To provide uniformity in development of standardized procedures.”

3 10. **California Code of Regulations, Title 16, section 1471 [Definitions]** states:

4 “For purposes of this article:

5 “(a) ‘Standardized procedure functions’ means those functions specified in Business and
6 Professions Code Section 2725(c) and (d) which are to be performed according to ‘standardized
7 procedures;’

8 “(b) ‘Organized health care system’ means a health facility which is not licensed pursuant
9 to Chapter 2 (commencing with section 1250), Division 2 of the Health and Safety Code and
10 includes, but is not limited to, clinics, home health agencies, physicians’ offices and public or
11 community health services;

12 “(c) ‘Standardized procedures’ means policies and protocols formulated by organized
13 health care systems for the performance of standardized procedure functions.”

14 11. **California Code of Regulations, Title 16, section 1472 [Standardized Procedure
15 Functions]** states:

16 “An organized health care system must develop standardized procedures before permitting
17 registered nurses to perform standardized procedure functions. A registered nurse may perform
18 standardized procedure functions only under the conditions specified in a health care system’s
19 standardized procedures; and must provide the system with satisfactory evidence that the nurse
20 meets the experience, training and/or educational requirements to perform such functions.”

21 12. **California Code of Regulations, Title 16, section 1474 [Standardized Procedure
22 Guidelines]** states:

23 “Following are the standardized procedure guidelines jointly promulgated by the Medical
24 Board of California and by the Board of Registered Nursing:

25 “(a) Standardized procedure shall include a written description of the method used in
26 developing and approving them and any revision thereof.

27 “(b) Each standardized procedure shall:

28 “(1) Be in writing, dated and signed by the organized health care system personnel

1 authorized to approve it.

2 “(2) Specify which standardized procedure functions registered nurses may perform and
3 under what circumstances.

4 “(3) State any specific requirements which are to be followed by registered nurses in
5 performing particular standardized procedure functions.

6 “(4) Specify any experience, training, and/or education requirements for performance of
7 standardized procedure functions.

8 “(5) Establish a method for initial and continuing evaluation of the competence of those
9 registered nurses authorized to perform standardized procedure functions.

10 “(6) Provide for a method of maintaining a written record of those persons authorized to
11 perform standardized procedure functions.

12 “(7) Specify the scope of supervision required for performance of standardized procedure
13 functions, for example, immediate supervision by a physician.

14 “(8) Set forth any specialized circumstances under which the registered nurse is to
15 immediately communicate with a patient’s physician concerning the patient condition.

16 “(9) State the limitations on settings, if any, in which standardized procedure functions
17 may be performed.

18 “(10) Specify patient record keeping requirements.

19 “(11) Provide for method of periodic review of the standardized procedures.”

20 13. **Code section 2836.1 [Furnishing or ordering of drugs or devices by nurse**
21 **practitioners]** states:

22 “Neither this chapter, nor any other provision of law shall be construed to prohibit a nurse
23 practitioner from furnishing or ordering drugs or devices when all of the following apply:

24 “(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance
25 with standardized procedures or protocols developed by the nurse practitioner and the supervising
26 physician when the drugs or devices furnished or ordered are consistent with the practitioner’s
27 educational preparation or for which clinical competency has been established and maintained.

28 “(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined

1 by Section 2725, or protocol. The standardized procedures or protocol shall be developed and
2 approved by the supervising physician and surgeon, the nurse practitioner, and the facility
3 administrator or the designee.

4 “(c)(1) The standardized procedure or protocol covering the furnishing of drugs or devices
5 shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or
6 devices may be furnished or ordered, under what circumstances, the extent of physician and
7 surgeon supervision, the method of periodic review of the nurse practitioners’ competence,
8 including per review, and review of the provisions of the standardized procedure.

9 ...

10 “(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under
11 physician and surgeon supervision. Physician and surgeon supervision shall not be construed to
12 require the physical presence of the physician, but does include (1) collaboration on the
13 development of standardized procedure, (2) approval of the standardized procedure, and (3)
14 availability by telephone contact at the time of patient examination by the nurse practitioner.

15 ...”

16 14. **Code section 2836.2 [What constitutes furnishing or ordering of drugs or**
17 **devices]** states:

18 “Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act
19 of making a pharmaceutical agent or agents available to the patient in strict accordance with a
20 standardized procedure. All nurse practitioner who are authorized pursuant to Section 2386.1 to
21 furnish or issue drug orders for controlled substances shall register with the United States Drug
22 Enforcement Administration.”

23 15. **Code section 2775 [Definition]**² states:

24 “A nursing corporation is a corporation which is authorized to render professional services,
25 as defined in Section 13401 of the Corporations Code, so long as that corporation and its
26 shareholders, officers, director, and employees rendering professional services who are registered

27 _____
28 ² Code section 2775 et.seq., is in reference to Nursing Corporations.

nurses are in compliance with the Moscone-Knox Professional Corporations Act, the provision of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a nursing corporation, the governmental agency referred to in the Moscone-Knox Professional Corporations Act is the Board of Registered Nursing."

16. **Code section 2776 [Individual unprofessional conduct]** states:

"It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws."

17. **Code section 2777 [Corporate unprofessional conduct]** states:

"A nursing corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter."

18. **Code section 2778 [Name]** states:

"The name of a nursing corporation and any name or names under which it may render professional services shall contain the words 'nursing' or 'registered nursing,' and wording or abbreviations denoting corporate existence."

19. **Corporations Code section 13401.5**, subdivision (a)(3) of the "Moscone-Knox Professional Act," provides in pertinent part that registered nurses may be shareholders, officers, directors, or professional employees of medical corporations so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation and so long as the number of those licensed persons owning shares in the professional corporation so designated does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation.

20. **Code section 2726 [Unauthorized practices]** states "Except as otherwise provided herein, this chapter confers no authority to practice medicine or surgery."

1 COST RECOVERY

2 21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 STATEMENT OF FACTS

9 22. At all times mentioned herein, Respondent was licensed as a registered nurse, nurse
10 practitioner and furnishing nurse practitioner as set forth above in paragraphs 2 through 4.
11 Respondent was never licensed as a physician. From April 1989 up to June 2014, she was the sole
12 owner of AAI Health Services, in Alameda, California.³ Respondent described her clinic as a
13 non-profit corporation and claimed that she operated it as an "Independent Nurse Practitioner
14 Practice in all concepts of Operating (sic) a family practice as a practitioner and employer of
15 other medical staff."

16 23. While in practice, at least from 2006, Respondent used a book published by J.B.
17 Lippincott Company, entitled "Patient Care Guidelines for Nurse Practitioners" Fourth Edition,
18 as her standardized procedures. According to a Mid-Level Clinician Agreement entered into with
19 Dr. J. S. MD, in 2006 and in 2011, Respondent ordered medications "pursuant to applicable
20 provisions of the California Business and Professions Code relating to the practice of mid-level
21 clinicians." Anderson admitted that the aforementioned book used as her Standardized
22 Procedures did not specify the experience, training, or education requirement of nurse
23 practitioners, did not provide any limitations on the settings which the standardized procedure
24 functions may be performed and did not specify any patient record keeping requirements.

25 ///

26 _____
27 ³ AAI stood for "Andrea Anderson Incorporated." Respondent claimed in an interview on
28 July 11, 2014, that she closed AAI Health Services in June 2014, but the corporation was still
active.

24. On or about August 22, 2013, Respondent provided care to Patient 1, who was accompanied by his mother. Patient 1 suffered from bi-polar disorder and was seen at AAI regarding medications for the treatment of his asthma. When a dispute arose regarding the appropriate medication to treat Patient 1's asthma, Respondent advised Patient 1's mother that she was the doctor. Subsequently, Patient 1's sister called AAI to speak to Respondent. When Respondent came on the phone she identified herself as "Dr. Anderson" with no reference to her being a nurse practitioner.

25. On May 20, 2014, an investigator for the Board made a visit to AAI. During the visit, the investigator was shown the lab coat that Respondent wore while seeing patients. Above the left breast pocket, the lab coat had the name "Dr. Anderson" written in black ink.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Violation of the Moscone-Knox Professional Act)

26. Respondent is subject to discipline for unprofessional conduct pursuant to Code sections 2761, subdivision (a), 2775, 2776, 2777 and Corporations Code section 13401.5, in that since 1989 she has solely owned and operated a nursing/medical corporation. The facts in support of this cause for discipline is set forth above in paragraph 22.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Failure to Appropriately Identify Clinic)

27. Respondent is subject to discipline for unprofessional conduct pursuant to Code sections 2761, subdivision (a), and 2778, in that the name of her clinic failed to contain the words nursing, registered nursing, or words to that effect. The facts in support of this cause for discipline is set forth above in paragraph 22.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct -- Impersonating a Medical Doctor)

28. Respondent is subject to discipline for unprofessional conduct pursuant to Code section 2761, subdivisions (a) and (h), in that she impersonated a medical doctor while treating and/or speaking to patients and/or family members. The facts in support of this cause for discipline are set forth above in paragraphs 24 and 25.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Provision of Care Without Required Standardized Procedures)

3 29. Respondent is subject to discipline for unprofessional conduct pursuant to Code
4 section 2761, subdivisions (a) and (d), 2725, and California Code of Regulations, title 16, sections
5 1472 and 1474, in that she operated her clinic AAI, without the required Standardized Procedures.
6 Specifically, Respondent did not have in place Standardized Procedures that were in compliance
7 with section 1474, subdivisions (a) and (b)(1 to (b)(11). The facts in support of this cause for
8 discipline are set forth above in paragraphs 22 and 23.

9 FIFTH CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct – Furnishing Drugs Without Required Standardized Procedures)

11 30. Respondent is subject to discipline for unprofessional conduct pursuant to Code
12 sections 2761, subdivisions (a) and (d), 2725, and 2836.1, in that she furnished and/or ordered
13 medications without having the required Standardized Procedures. The facts in support of this
14 cause for discipline are set forth above in paragraphs 22 through 24.

15 SIXTH CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct – Practice of Medicine Without a License)

17 31. Respondent is subject to discipline for unprofessional conduct pursuant to Code
18 section 2761, subdivision (a) and (d), based on her practicing without the required Standardized
19 Procedures and misrepresenting herself as a medical doctor. The facts in support of this cause for
20 discipline are set forth above in paragraphs 22 through 25.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 419470, issued to Andrea
25 R. Anderson, aka Roswitha Andrea Anderson, aka Andrea Roswitha Anderson;

26 2. Revoking or suspending Nurse Practitioner Certificate Number 4477, issued to
27 Andrea R. Anderson, aka Roswitha Andrea Anderson, aka Andrea Roswitha Anderson;

28 3. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 4477,

1 issued to Andrea R. Anderson, aka Roswitha Andrea Anderson, aka Andrea Roswitha Anderson;

2 4. Ordering Andrea R. Anderson, aka Roswitha Andrea Anderson, aka Andrea Roswitha
3 Anderson to pay the Board of Registered Nursing the reasonable costs of the investigation and
4 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

5 5. Taking such other and further action as deemed necessary and proper.

6 DATED: April 28, 2017

7 for Anne Bur
8 JOSEPH L. MORRIS, PHD, MSN, RN
9 Executive Officer
10 Board of Registered Nursing
11 Department of Consumer Affairs
12 State of California
13 *Complainant*

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